United Nations A/HRC/37/NGO/106

General Assembly

Distr.: General
15 March 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-04010(E)
1804010

Please recycle

Title of Special Rapporteur is Deceptive as He Ignores Palestinian Human Rights Abuses

Michael Lynk holds the post of "Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967." Although the title of the mandate suggests the rapporteur monitors "the situation of human rights in the occupied Palestinian territories," the text of the mandate makes clear that the rapporteur is charged only with investigating Israel's violations.[1] This results in a troubling protection gap by which Mr. Lynk has been able to justify monitoring only Israel's alleged violations while ignoring Palestinian Authority and Hamas violations of Palestinian and Israeli human rights. Despite repeated urging by United Nations Watch, Mr. Lynk has taken no steps to remedy the protection gap.

In an October 26, 2017 letter to Mr. Lynk,[2] United Nations Watch Executive Director Hillel Neuer expressed deep concern over Mr. Lynk's latest report,[3] which for the third consecutive time failed to address human rights violations committed by the Palestinian Authority and Hamas. Mr. Lynk acknowledged the omission at ¶ 4, saying the report only "focuses. . . on the violations committed by Israel," but in Footnote 1 justified the neglect of abuses committed by the PA and Hamas by citing the mandate."[4]

The letter asked:

1. Why has Mr. Lynk not followed the lead of one of his predecessors, John Dugard, who already set a precedent in addressing certain Palestinian human rights violations—on the grounds that "it would. . . be irresponsible for a human rights special rapporteur" to allow certain abuses to "go unnoticed"? [5]

2. Why has Mr. Lynk not asked the Human Rights Council to change the mandate and end the protection gaps, as even Richard Falk did on the first day of his term?

3. Does Mr. Lynk agree with former Special Rapporteur Hannu Halinen that the mandate is inherently flawed for "prejudging the outcome of the findings"[6] in that it "take[s] for granted that there were violations" and that "they were committed by Israel"?

4. So long as the mandate remains unchanged, will Mr. Lynk cease use of the deceptive title "Special Rapporteur *on the situation of human rights in the Palestinian Territory*?" — which implies the mandate is of universal application to all actors, be they Israeli or Palestinian — when in fact he is well aware that his mandate applies only to Israeli actions, and with violations prejudged and guilt presumed?

In response to questions posed by reporters at Lynk's October 26, 2017 U.N. press conference about his just released report, Mr. Lynk disingenuously claimed he was "unaware" Dugard had reported on Palestinian Authority violations.[7]

---

1 "Mandate to Discriminate," *UN Watch*, March 10, 2016, available at https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf.

2 Letter dated Oct. 26, 2017 from Hillel Neuer to Michael Lynk, available at https://www.unwatch.org/report-u-n-palestine-investigator-calls-boycott-ignores-palestinian-rights-violations/.

3 A/72/43106, Michael Lynk, "Situation of human rights in the Palestinian territories occupied since 1967," Oct. 23, 2017, available at https://www.unwatch.org/wp-content/uploads/2009/12/Lynk-Report-Oct-2017-A_72_43106.pdf.

4 Commission on Human Rights resolution 1993/2, available at https://unispal.un.org/DPA/DPR/unispal.nsf/0/EF7E1F52C06A9CB885256AD2004B1194.

5 A/60/271 John Dugard, "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem," Aug. 18, 2005, available at https://unispal.un.org/DPA/DPR/unispal.nsf/0/02BF82D785FE854A85257088004C374C.

6 "Mandate to Discriminate," *UN Watch*, March 10, 2016, available at https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf.

This claim is suspect given that UN Watch's report "Mandate to Discriminate" specifically discussed this point. The report was published in March 2016, was widely read and criticized by states and academics who supported Mr. Lynk's nomination, and was referenced in a series of subsequent letters and reports sent to Mr. Lynk.

All human rights victims deserve protection and a voice at the United Nations—regardless of the perpetrator. Mr. Lynk's refusal to speak out on behalf of the victims of the Palestinian Authority and Hamas is antithetical to the universal values of the United Nations. We call on Micahel Lynk and the Human Rights Council to rectify this injustice and end the protection gap inherent in his mandate.

Below are just some examples of human rights violations perpetrated by the Palestinian Authority and Hamas which Mr. Lynk has ignored as Special Rapporteur on Palestine.

Palestinian Authority Violations in West Bank Ignored by Lynk

- **Arbitrary Arrest**: PA arrests former Arafat bodyguard Mohamed al-Dayya for criticizing PA policies, transfer him to undisclosed location, and deny him contact with his family. (*December 2017*).
- **Incitement of children to terror**: PA violates rights of children by encouraging them to engage in violence and terrorism. PA education official glorifies martyrdom death in resisting Israeli "occupation" to Palestinian youth at PA school named after Palestinian terrorist. PA funded youth magazine publishes poem teaching children that throwing rocks at Jews is mandated by Muhammad. (*November 2017*).
- **Arbitrary Arrest, Censorship**: PA arrests at least five journalists and a prominent human rights defender, as part of a crackdown on journalists which also included passage of the draconian Electronic Crimes Law curbing free speech on the internet. (*August-September 2017*).
- **Torture:** PA security forces arrest and severely beat Ahmad Izzat Halaweh who dies shortly thereafter in Jeneid prison in Nablus. *(August 2016)*
- **Torture:** Three Palestinians allege they were held incommunicado and tortured by PA intelligence officers for almost three weeks following their April 9, 2016 arrest. *(April 2016)*

Hamas Violations Ignored by Mr. Lynk's Reports

- **Extrajudicial killing**: Hamas affiliated family kills relative Ahmad Said Barhoum accused by Hamas of aiding Israel in killing three Hamas commanders in summer 2014. Execution takes place just after Hamas releases Barhoum to his family, after having held him in custody for several months without trial. Hamas praises execution. (January 2018).
- **Torture**: Hamas tortures militants responsible for rocket fire into Israel. (December 2017).
- **Torture of Juveniles**: Hamas imprisons Mustafa Salman, 16, for injuring a young man's hand in a fight. Salman is detained in a cell with other adults and subjected to torture and abuse by the other prisoners and by police, leading him to commit suicide. (September 2017).
- **Torture, Arbitrary Arrest**: Hamas agents arrest and torture Mohammed Sufian al-Qassas, owner of internet cafe due to complaints that victim was "insulting god," victim suffers severe injuries and remains in coma for two and a half days. (September 2017).
- **Extrajudicial Killing:** Hamas hangs three Palestinians convicted in unfair military trial for collaborating with Israel. (April 2017).
- **Torture, Censorship:** Hamas detains and tortures journalist Mohamed Ahmed Othman, seeking the source of a government document he had published. *(September 2016)*

Palestinian Terrorism Against Israelis Ignored by Mr. Lynk's Reports

---

7 Video: U.N. Palestine rapporteur 'unaware' he could address Palestinian human rights violations." *UN Watch*, Oct. 26, 2017, available at https://www.unwatch.org/u-n-palestine-rapporteur-unaware-report-palestinian-human-rights-violations/.

- **Shooting at Civilians:** Hamas terror cell responsible for murder of Rabbi Raziel Shevach in drive-by shooting. (*January 2018*).
- **Rockets at Civilians:** Following President Trump's announcement on Jerusalem, at least 18 rockets are fired from Hamas-controlled Gaza Strip into Israel communities, one of which damages a home near the Israeli city of Ashkelon. (*December 2017*).
- **Building Terror Tunnels:** In a span of less than six weeks, the IDF discovers two terror attack tunnels leading from the Hamas-controlled Gaza Strip into Israel. (*October-December 2017*).
- **Calling for Israel's Destruction**: Following Palestinian unity deal, Hamas leader Salah Arouri rejects any possibility of recognizing Israel, stating "we are now in the stage of preparing to eliminate the Zionist entity." The statement was condemned by by Nickolay Mladenov, UN Special Coordinator for Middle East Peace. Michael Lynk said nothing. (*October 2017*).
- **Stabbing Civilians; Inciting Terrorism:** Hamas affiliated terrorist murders three members of Salomon family at Friday night Shabbat dinner in their home, following vicious incitement by Palestinian leaders in Fatah and Hamas and mass Palestinian rioting over Temple Mount security measures. (*July 2017*).
- **Kidnapping:** In violation of international humanitarian law, Hamas holds three Israelis who entered the Gaza Strip between 2014 and 2016, as well as the remains of two Israeli soldiers killed in Operation Protective Edge. *(2014 to today)*.

United Nations A/HRC/37/NGO/107

General Assembly

Distr.: General
9 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-02023(E)
1802023

Please recycle

BANGLADESH: Government stands against independent human rights defenders

The Asian Legal Resource Centre (ALRC) wants to bring the situation of human rights defenders of Bangladesh to the attention of the United Nations Human Rights Council. The Government of Bangladesh stands against the human rights defenders with draconian legislations and various institutions and agencies of the State. Independent dissenting voices face systemic harassments. Given the circumstances, the human rights defenders have to work without any notion of protection while defending rights in the country. The threats against the human rights defenders are increasing as the 3rd Cycle of the Universal Periodic Review (UPR) is approaching.

The Government of Bangladesh has amended the existing laws and has adopted new laws with vague definitions and harsher provisions to stifle the human rights organisations and individual defenders along with other dissenting voices.

The incumbent government made the Foreign Donations (Voluntary Activities) Regulation Act 2016. This law not only intimidates the civil society actors but also prevents the expected outcome that the human rights organisations strive for achieving for the society. The law provides the NGO Affairs Bureau (NGOAB), a wing under the Office of Prime Minister, the power to review and cancel proposed projects by NGOs. A persons' travelling out of Bangladesh in relation to the projects requires prior governmental approval. The NGO Affairs Bureau is authorised to scrutinise the activities through inspections and monthly coordination meetings by the representatives of the NGOAB while prior approval is also required for planned activities before receiving the grants. Without any judicial process the NGOAB is empowered to impose sanctions for alleged 'non-compliance' against any organisation or individual receiving foreign funds for voluntary activities. Such actions also include fines, disciplinary actions, and cancellation of registration of the NGO even for 'derogatory' remarks. The decisions of the NGOAB can only be brought before the Secretary of Office of the Prime Minister as an 'appeal'. The law establishes the bureaucrats' control over voluntary activities while Bangladesh's bureaucracy has reputation for systemic corruption and abuse of power.

Bangladesh's Cabinet has approved the Digital Security Bill-2018 on 29 January 2018. This Bill may be enacted in any day during the ongoing Session of the national parliament. This proposed law curtails both the freedom of press and the writ of human rights organisations. The police is authorised to arrest any person without a warrant of arrest issued by a Court of the country if the police officer believes that an offence is committed under this law. A person can be imprisoned for 14 years, with or without a fine of BDT 10 million for publishing any material online for 'spreading negative propaganda against Liberation War or the Father of the Nation' while there is no definition of 'negative propaganda' provided in the law. Publishing 'false' and 'distorted' information to tarnish the image of the State is punishable with three years' imprisonment and with or without a penalty of BDT three hundred thousand. If a person is held for the second time for the same crime he or she will be imprisoned for five years with or without a penalty of BDT one million. Such provision will put the human rights defenders in grave danger, as they have to contest the official version of the State, which always denies allegation of human rights abuses and accuses the rights groups for 'tarnishing the image of the State'. For example, the government and the law-enforcement agencies of Bangladesh deny every incident of enforced disappearances and each of extrajudicial executions while the human rights defenders and media explore and expose the truth.

Bangladesh Government, by default, protects the perpetrators of human rights abuses in a deeply rooted culture of impunity. The State prevents the basic institutions from functioning and serving the people with fairness. Instead, the incumbent government uses all the institutions, including the judiciary, as tools to secure its power at the cost of the lives and liberties of the ordinary people.

The participation of independent human rights organisations in the Universal Periodic Review (UPR) mechanism of the UN Human Rights Council makes them governmental targets for exposing the human rights realities. For example, *Odhikar*, a locally based human rights organisation, contributed to the UPR process during the first and second cycles in 2009 and in 2013. This rights group consistently documented the cases and pattern of extrajudicial executions, enforced disappearances, custodial torture, curtailing the freedom of expression and opinion, and denial of justice to the victims of gross human rights abuses in Bangladesh. The government started harassing this organisation for publishing a fact-

finding report on a massive crackdown in May 2013. Its leaders were made the victims of the country's first ever cyber crime case, which is still pending before a special tribunal incepted for holding trial of such cases. Their bank accounts are frozen and NGO registration's renewal has been halted since mid 2014. The activists who are engaged in standing beside the victims of human rights violations remain under active surveillance by the intelligence and law-enforcement agencies.

Bangladesh is moving toward another general election by the end of 2018. The incidents of gross human rights abuses are also on the rise. The incumbent government is using the State's law-enforcement agencies and judiciary to drive away the political opposition. The government has already started arresting the opposition activists arbitrarily as the main opposition leader is afraid to be convicted in controversial corruption cases. As days pass on more violation of human rights would deteriorate the situation requiring the human rights defenders to assist the victims. The activities of the rights groups would invite more reprisals against the human rights defenders, except those who directly or indirectly align with the incumbent government for their financial and political benefits.

Bangladesh's system of governance is authoritarian and coercive by nature. The institutions – be it a constitutional body or a statutory entity - function according to the wish of the Prime Minister, as a supreme controller of everything. The universal normative principles of justice and good governance do not exist or work in this country. As a result, all the basic institutions constantly fail to act for the actual purpose of upholding the rule of law and facilitate functional democracy. The judiciary and the entire criminal justice apparatus, survive as mere facades. These facades facilitate the process of silencing the society's vibrant voices.

The ALRC urges the Special Rapporteur on the Situation of Human Rights Defenders to request Bangladesh for sending invitation to the mandate for country visit. The Human Rights Council and the Office of the High Commissioner for Human Rights to focus on Bangladesh's domestic human rights realities and intervene for the protection of victims from gross violation of rights.